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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Audit and investigation of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

1. Pursuant to General Assembly resolution 48/218 B of 29 July 1994, the Secretary-General has the honour to transmit herewith, for the attention of the Assembly, the report conveyed to him by the Under-Secretary-General for Internal Oversight Services on the audit and investigation of the International Tribunal for the Former Yugoslavia.

2. The Secretary-General takes note of the findings and concurs with the recommendations set out in the report.

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Report of the Office of Internal Oversight Services on the audit and investigation of the International Tribunal for the Former Yugoslavia

Summary

In response to a request of the Fifth Committee of the General Assembly, the Office of Internal Oversight Services (OIOS) carried out a review of the International Tribunal for the Former Yugoslavia similar to those conducted of the International Criminal Tribunal for Rwanda in 1996 and 1997. Although audits of the Tribunal have been performed previously, this is the first such comprehensive review to be carried out by a team of OIOS auditors and investigators. The review indicated that the Tribunal's operational areas were generally managed in an efficient and effective manner, but some key administrative and financial areas needed improvement. These areas included cash management, the administration of accounts receivable and trust funds, personnel recruitment, procurement and property management.

The review noted that an effective working relationship and spirit of cooperation existed among the three organs of the Tribunal — the Chambers, the Office of the Prosecutor and the Registry — and that regular meetings were held to exchange ideas on how to improve the efficiency of its operations.

OIOS recommended that the Tribunal take appropriate measures to ensure:

(a) The maintenance of optimal cash levels;

(b) The prompt collection of overdue accounts receivable;

(c) The consistent application of placement and promotional policies for vacant positions;

(d) The proper use of and accounting for assets;

(e) The adoption of effective and efficient protection measures;

(f) The strengthening of controls over the use of the Tribunal's trust funds;

(g) The provision of guidelines and required additional training for the staff of the Office of the Prosecutor.

The organs of the Tribunal have generally accepted the findings and recommendations of the present report.

Contents

		Paragraphs	Page
I.	Introduction	1–3	4
II.	Overall assessment	4	4
III.	The Registry	5–44	4
	A. Finance	6–14	4
	B. Personnel	15–18	5
	C. Travel	19	6
	D. Asset management	20–26	6
	E. Procurement	27–30	7
	F. Building management and construction	31–33	8
	G. Victims and Witnesses Section	34–35	8
	H. Security	36–39	8
	I. Operation of the trust funds	40–41	9
	J. Defence counsel management	42–43	9
	K. Press and Public Affairs Unit	44	10
IV.	The Office of the Prosecutor	45–50	10
	A. Prosecution Division	46–47	10
	B. Investigation Division	48–50	10
V.	The Chambers	51–53	11
VI.	Conclusions	54	11
VII.	Recommendations to the Tribunal	55–56	11
	A. Registry	55	11
	B. Office of the Prosecutor	56	12

I. Introduction

1. The Security Council, in its resolution 827 (1993) of 25 May 1993, acting under Chapter VII of the Charter of the United Nations, established the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia. The Tribunal has its headquarters at The Hague and has the power to prosecute persons committing or ordering the commission of grave breaches of the Geneva Conventions of 12 August 1949. The Tribunal comprises three separate organs: the Chambers, headed by the President of the Tribunal; the Registry, headed by the Registrar; and the Office of the Prosecutor, headed by the Prosecutor, who is also the Prosecutor for the International Criminal Tribunal for Rwanda.

2. The Tribunal's appropriations for 1997 amounted to $48.59 million gross. Its revised budget appropriations for 1998 amounted to $68.31 million and a commitment authority of $2.63 million. The Tribunal also has trust funds with total cash and in-kind donations of $15.8 million and $6.5 million respectively as at the end of 1998. The Voluntary Fund to support the activities of the Tribunal had total allotments of $6.3 million in 1998, of which $4.3 million had been used. The Tribunal also received in-kind contributions consisting of a courtroom and its facilities, equipment and personnel.

3. Although the Office of Internal Oversight Services (OIOS) has conducted several audits of the Tribunal, in response to a request of the Fifth Committee, it conducted a further review of the Tribunal similar to the review of the International Criminal Tribunal for Rwanda conducted in 1996 and followed up in 1997. The Under-Secretary-General for Internal Oversight Services assigned a team of auditors and investigators to conduct the review covering the years 1997 and 1998 at The Hague and at the field offices, located at Zagreb and Sarajevo. The team examined the Tribunal's records, interviewed senior officials and other staff members and conducted on-site inspections of property and facilities. The team also verified the implementation of the 1995–1996 audit recommendations. The Tribunal has reviewed the report and provided comments that have been taken into consideration in its preparation, and specific comments are italicized in the relevant sections. All recommendations have been accepted.

II. Overall assessment

4. The Registry has adequate internal controls to ass reliability of records and reports and the integrity transactions. It implemented most of the recommendati made in the 1995–1996 audit to improve its financial accounting systems and building and construct management. The review noted a need to improve cert areas: cash management, payroll, trust fund administrati personnel recruitment and placement, and procurement. Office of the Prosecutor has systems and strategies to eff its mandate.

III. The Registry

5. The Registry operates under the supervision of Registrar and is responsible for the administration servicing of the Tribunal. The review team determined the Registrar has established organizational charts defin responsibilities and lines of authority and has issued, o regular basis, administrative instructions, circulars policy guidelines. Furthermore, internal controls have b established and are being enforced according to establish United Nations rules, regulations and administrat instructions.

A. Finance

1. Accounting system

6. Corrective actions have been initiated for deficiencies identified in the audit report of 1 July 1996. review of the recording and reporting systems revealed transactions are recorded and processed in a more timely correct manner. Financial statements and reports prepared and submitted to United Nations Headquarter required on a monthly basis. The Finance Section contin to strengthen the internal controls of the Sun computeri accounting system. OIOS commends, in particular, efforts made by the Finance Officer in processing finan data on a current basis and providing on-the-job trainin staff members.

2. Cash management

7. The review of petty cash funds, which had a authorized value of $46,000, indicates that controls generally adequate. The funds should be reviewe establish whether approved cash levels should be redu

whether certain petty cash funds are necessary and whether controls ensure accountability of the funds. Because of occasional small losses, controls should be strengthened to avoid such losses in the future.

8. Unannounced cash counts of two petty cash funds at The Hague and those at Zagreb and Sarajevo found them intact. Controls were adequate, including written instructions for their operation, which were properly adhered to by the custodians. The Finance Officer should ensure that unannounced cash counts are conducted more often, in particular at the field offices.

(a) Bank accounts

9. OIOS reviewed the two bank accounts maintained by the Registry — one in New York in United States dollars and another one in a local bank at The Hague. Bank reconciliations were prepared on a current basis, but some reconciling items required adjustments, including stale checks.

10. In the months of January, March, April, May and August 1998, the balances in the two accounts were substantially in excess — averaging $350,000 per month — of the day-to-day cash requirements. This situation resulted from overestimating the amount of cash required to settle obligations or projected contracts. In other cases it was due to timing differences. Computations based on the minimum unused cash balance each month showed that funds remained in the accounts for about 30 days in a given month. The Finance Officer advised OIOS that the Registry had requested the Finance Section to determine whether arrangements could be made by Chase Manhattan Bank for overnight deposits of unused balances. *The Registrar stated that the Registry had implemented a policy of requesting replenishments twice a month to reduce the daily cash balances on hand.*

11. As recommended in the previous audit, transfer letters payable to actual payees and signed by the account signatories are used to effect cash payments. This has reduced the high charges associated with using cheques.

(b) Accounts receivable

12. The accounts receivable should be reviewed in accordance with the procedures set out in the United Nations Accounting Manual, and corrective action should be taken on a timely basis. Among specific items requiring review were credit balances amounting to $68,000 and long-outstanding accounts receivable items totalling $80,000. OIOS believes that a number of these receivables are unrecoverable and will require write-off action. *The Registrar stated that the accounts receivable had been under review and corrective action had been taken on all outstanding items. Unrecoverable items are being identified for write-off.*

(c) Outstanding obligations

13. OIOS found that 1997 outstanding obligations of $37,549, which were no longer valid, should be cancelled. The Finance Section routinely requests certifying officers to review outstanding obligations for corrective action. It should set deadlines for responses and when they are not received on time, bring them to the attention of senior management for action.

(d) Payroll

14. The Finance Section of the Registry uses the Progen program for General Service staff payroll and a spreadsheet for Professional staff payroll. However, the Tribunal will be purchasing a payroll package for the latter to ensure more timely and complete processing. OIOS also noted the need to prepare written guidelines and procedures in payroll processing.

B. Personnel

15. As at October 1998, the Tribunal had 619 staff members (284 Professional and 335 General Service) and 14 judges. The Human Resources Section had issued 784 special service agreements for consultants and individual contractors and 456 short-term contracts. The staffing table of the Tribunal was approved on 22 December 1997. On 22 May 1998 the Tribunal received budget approval for 646 posts for 1998. The Registry has requested a delegation of authority to classify posts up to the P-5 level and reports that it is expected to be granted as from May 1999. OIOS noted general improvement in human resources management since the 1995 audit. The Registry stated that there is a continuous effort to introduce further improvements in the provision of personnel services.

16. The Tribunal's staffing table showed that 87 posts authorized as from 1 January 1998 were still vacant. Recruitment has been conducted over the telephone for as many as 90 per cent of the vacancies except for high-level and sensitive posts. With no budget allotments approved to cover the costs of interviewing candidates, this method of interviewing is considered to be economical, but there are still questions about its effectiveness and reliability. *The Registrar stated that recruitment procedures had been*

reviewed and that for Professional posts, the Tribunal now arranges interviews of the shortlisted candidates at The Hague prior to making a selection.

17. The team noted the relatively high percentage of women staff members at the Professional and other levels (44 per cent), but there is an imbalance in the geographical representation of countries at the Tribunal, as nationals from seven of the most economically developed countries represent 68 per cent (174 of 255) of the Professional, Director and Under-Secretary-General/ Assistant Secretary-General posts and 66 per cent of posts from the P-4 to the Under-Secretary-General levels. The Registry said that it continued to consider geographical representation in its recruitment and promotion practices and that it recruited in accordance with the guidelines for desirable ranges set by the General Assembly. *The Registrar stated that while it was true that the Tribunal experienced problems in recruiting interpreters and translators because of both the high standards required and the competition for qualified staff, this did not extend to other staff. However, the Registrar reported problems in recruiting candidates who met language requirements, considering the exacting demands for oral and written legal presentations.*

18. The review team identified Professional and General Service posts that were utilized for staff members who did not possess the required number of years of seniority or other requirements to qualify for the post. Furthermore, four posts have been approved for reclassification from P-4 to P-5 effective 1 January 1998, but they have not been reclassified and are pending at the Office of Human Resources Management in New York. Three of the four are encumbered by staff members who do not have the seniority requirements. Thirty-seven General Service staff were placed in higher-level reclassified posts with the intention of effecting their promotion on the date that they met the Registry's seniority requirement. Eight of the 37 received a special post allowance for the higher-level post. During the exit conference, OIOS was advised that the Registry had not asked for job classifications for the posts that had been upgraded because the incumbents were professionally and educationally qualified but lacked only the necessary seniority. The Registry should adhere to the requirement that vacant posts be classified, announced and filled by qualified personnel in a timely manner. *The Registrar stated that placement and promotion policies for human resources management were in place and had been distributed as administrative instructions.*

C. Travel

19. The procedures instituted to ensure control over travel were reviewed. The Registry has implemented audit recommendations to strengthen documentation and certification of travel expenditures and has issued guidelines to travellers. The review also revealed that between January 1997 and October 1998, more than 4,000 travel actions were initiated, with most coming from the Investigation Division. A detailed examination of sample travel actions found that travel was authorized, advance payments were proper and recovered and travel claims were properly settled. However, when conducting the review, it was noted that quarterly travel plans were not prepared and approved by the section chiefs. Autonomy was delegated to each section to monitor its own budget with regard to travel, but based on the rate of allotment usage, the Registry needs to review regularly the budget levels to adjust them to actual needs.

D. Asset management

1. Inventory of non-expendable items

20. The Tribunal had non-expendable property valued at $9.84 million as at 30 September 1998. Of this property, assets worth $5.06 million were located in The Hague while the remainder was in the field offices.

21. The review team randomly selected 85 property items, valued at $2.81 million, for physical verification, including computer equipment, telecommunication equipment and vehicles. The team found deficiencies in inventory management. For example, the listing provided by the Registry did not disclose the specific location of each item, did not consistently disclose the decal number and/or the item serial number and did not show the condition or status of each item. The verification disclosed that decal numbers were either not attached or not indicated on the list for 75 of the 85 items verified. Further, the review team found that six items valued at $189,729 were not being used.

22. The Financial Regulations and Rules of the United Nations require that property records be maintained for non-expendable property; good management practice suggests that records also be maintained for all other property for control purposes and accountability. Physical inventory should be verified for supplies, equipment and other property at such intervals as would ensure adequate control over such property. However, the team found that no property verification had been performed by the Registry for more than four years. *The Registrar stated that a complete*

inventory of furniture had now been conducted and entered into the property control database.

2. Vehicle management

23. OIOS reviewed the usage of five vehicles, valued at $120,459, and noted the implementation of previous audit recommendations. Controls are generally adequate. Physical inspection of the available vehicles at The Hague revealed that they were in good working condition, but the heads of two of the field offices reported that most of their vehicles needed to be replaced. *The Registrar stated that the Tribunal reported that it had recently purchased 12 new vehicles for the field offices.*

3. In-kind contributions

24. Donated property, which totalled more than $2 million as at 30 June 1998, is properly accounted for by the Registry, which has implemented improvements since the 1995–1996 audit. Two Governments made in-kind contributions for courtroom 3, which was delivered complete in July 1998 without the need to adhere to United Nations procurement requirements.

25. As at 30 September 1998, the Tribunal had 13 gratis personnel. Plans called for their services to be phased out by 31 December 1998 in accordance with General Assembly resolution 52/217 of 22 December 1997.

26. The Library and Reference Unit, which has been operational since late 1995, serves as a documentation and research centre for the three organs of the Tribunal as well as for defence counsel. It provides users with information both from its own collection and from material obtained from collections outside the Tribunal, in particular other international law libraries in The Hague. Through a contribution by the European Union, the library has acquired a CD-ROM, three computers, additional books, bringing the total to 1,500, and subscriptions to various legal periodicals. Access to the Internet and Lexis-Nexis is provided.

E. Procurement

27. The delegated authority to the Tribunal requires competitive bidding for procurement actions valued at $20,000 or more; competitive bidding and submission to the Local Committee on Contracts of purchases of goods and services valued at $50,000 or more; and competitive bidding for goods and services and submission to the Headquarters Committee on Contracts for purchases of $200,000 or more. Procedures are in place to ensure that procurement is undertaken on requests that are properly justified.

28. The review of the bidding process showed deficiencies in the management of the process. For example, an abstract should be prepared on the bids received, and the bids should be kept in a safe place until they are forwarded to the Bid Opening Committee for public opening. In response to a suggestion by OIOS, the Registry has established a 15-minute separation between the official closing time and the time for opening of bids so that the staff member responsible will have time to stamp and prepare the abstract of bids received. In addition, the review of the contracts themselves disclosed that some were signed several days after the commencement of services or delivery of goods. *The Registrar stated that the Tribunal was taking steps to strengthen the Procurement Unit in 1999 through the recruitment of an experienced chief, at the P-4 level, to head the Unit. As a result of this recruitment, it is envisaged that the overall standards of procurement in the Tribunal will be raised.*

29. Also, section 6.08 of the United Nations Procurement Manual requires the requisitioning offices to provide adequate lead time to conduct the procurement processes. The standard lead time for average requirements is 12 to 14 weeks, and for complex, highly technical requirements, the minimum period is six months. However, the OIOS team found that there were a large number of *ex post facto* cases — 44 per cent between January and October 1998 — as a result of poor planning by the requisitioning offices. OIOS has been advised that 90 per cent of the staff had no United Nations experience prior to their recruitment. As such, written guidelines to the substantive offices on procurement requirements and procedures for monitoring contract status would aid both those offices and the Procurement Unit. *The Registrar stated that strict implementation of procurement procedures was put in force in early 1998. The result of this has been that* ex post facto *cases have declined from 88 per cent of Local Committee on Contracts cases in January 1998 to none in September 1998. This trend has continued since, with very few new* ex post facto *cases arising.*

30. The review team found that invoices were submitted through the Procurement Unit for matching with appropriate purchase orders as well as receiving and inspection reports. OIOS believes that this practice must be changed. It does not adhere to the principle of segregation of duties among different functions. *The Registrar stated that the comments of the review team had been fully noted and the transfer of invoice processing from the Procurement Unit to the Finance Section was being reviewed.*

F. Building management and construction

31. The lease agreements were extended for another term, from 1 July 1998 to 30 June 2002. However, they were presented and approved *ex post facto* by both the local and Headquarters committees on contracts. For the period under review, activities included the completion of courtroom 2 in May 1998 and other leasehold improvements. OIOS noted the implementation of the 1995 audit recommendations that work and the related invoices be verified before being treated as leasehold improvements and paid by the Tribunal under lease agreement charges, and determined that the recommendations had been generally adhered to in the construction of courtroom 2.

32. For the detention facility, the agreement with the host country provided for the lease by the Tribunal of 24 detention cells within the compound of the Dutch State prison at The Hague. In the 1995 audit, OIOS suggested that a cost-benefit analysis be conducted regarding the lease rate and the facilities and services provided under the contract. The lease initially covered a period of four years and was extended for another four years. A total of 4 additional cells and 12 temporary cells were rented when the number of detainees increased. Owing to the short lead time given to the Headquarters Committee on Contracts to approve the contract for additional cells, the Tribunal, by a memorandum dated 10 August 1998, entered into the lease under its own delegated authority to approve expenditures of up to $200,000.

33. Records show that the Registry started the recommended renegotiation promptly but met with certain difficulties regarding the terms of services and facilities at the Detention Unit. The host Government constructed 12 additional cells and offered a new contract for both the cells and guard services. The rate of 419 guilders per detainee per day under the temporary agreement is more expensive when compared with the rate of 267 guilders for the original 24 cells, but current comparisons by the Registry with other prisons in European countries found that the host country rate was reasonable. The Headquarters Committee on Contracts approved the leasing of 24 furnished cell units, including meals and services, for four years from 1 October 1998. However, the Local Committee on Contracts has recommended a new arrangement for 36 cells at the rate of 404 guilders from 1 January 1999 to 30 September 2002. Given this substantial increase, however, OIOS suggests that the Registry perform a cost-benefit analysis. *The Registrar stated that a cost-benefit analysis had been performed and presented as a part of the case presented to both the Headquarters and local committees on contracts prior to entering into the new arrangement.*

G. Victims and Witnesses Section

34. The Victims and Witnesses Section is a specialized section responsible for recommending and arranging protective measures for victims and witnesses and for providing counselling and support. The experience and qualifications of the senior staff were reviewed and found to be fully consistent with the highly specialized functions to be carried out; junior staff were found to possess relevant experience and qualifications for assignment to the Section. As of 31 October 1998, the Section has brought to the Netherlands 425 witnesses. The Coordinator of the Section advised OIOS that the Section has entered into special agreements or discussions with Member States for relocation of witnesses.

35. OIOS determined that the services provided by the Section were sufficient to ensure sound protection for persons testifying before the Tribunal. For example, there have been instances in which the Section brought to the Tribunal witnesses from the former Yugoslavia who testified and returned safely home thereafter. There have been no reports of retaliation against witnesses. Two incidents were noted in which the identity of a protected witness was divulged, although not as a result of any breakdown in the Section's protection mechanisms.

H. Security

36. The role of the Tribunal's Security and Safety Section is to safeguard the lives of United Nations staff members and assets. Other duties include the movement of detainees and the protection of witnesses and visitors on the Tribunal premises. These assignments were reviewed and appear to be carried out appropriately. Access to the facilities and the courtrooms is controlled by Security. The main entrance has normal screening procedures. An evacuation plan (emergency response) for the Tribunal premises is also in place. *The Registrar stated that the movement of detainees from the Detention Unit to the Tribunal's headquarters building was carried out by members of the Netherlands police.*

37. Regular security updates are also given to staff members by Security, which has devised a security coordination network that involves all sections at the

Tribunal. Newly recruited Tribunal staff members get initial security awareness briefings.

38. In some sensitive missions, Security provides escorts to investigators and witnesses in the field and tracks and logs them regularly. It is the responsibility of Security to obtain and provide updates on field security situation reports to field staff.

39. Information collected for trial purposes relating to witnesses and data on staff members need to be stored securely by the Tribunal. Although a number of measures have been put in place by Security both at The Hague and in the field offices, recent reports in the media indicate the need to improve document controls. *The Registrar stated that a Network Security Officer at the P-3 level had been requested and approved in the Tribunal's budget for 1999. The role of this officer would include reviewing the security of all data sources in the Tribunal.*

I. Operation of the trust funds

40. The Registry has established standard operating procedures for administering its trust funds. The cumulative voluntary cash contributions as at 30 September 1998 totalled $15.6 million, while a cash pledge of $133,000 was pending collection. Furthermore, in-kind contributions amounting to $6.5 million were made (excluding personnel contributions). The review disclosed that the Controller-approved contributions, the Registry-prepared cost plans for use of the funds and expenditures were based on approved allotment advices. The main activities funded by trust funds are the exhumation project, the interim courtroom, the library, personnel costs, and salaries for the rules of the road and document backlog projects. The majority of the trust fund costs were incurred for salaries, travel and equipment. The Registry plans to hire a trust fund coordinator.

41. The review team noted, however, that improvement was needed on follow-up procedures to ensure that contributions are received and reported to the administering office; that programme support costs are computed and tracked properly; and that procedures for monitoring the 15 to 20 per cent operating reserve are effective and adequately supported. OIOS found that cash contributions for the Tribunal, as is the case for other trust funds, are usually deposited in New York, and cash receipt vouchers are raised to record the transactions. Copies of these cash receipt vouchers have not been sent to the Registry since April. Thus, the Registry lacks adequate information for control and accountability purposes. During the review it was found that the Tribunal's trust fund statement for the biennium 1996–1997 has a provision of $1.3 million for programme support costs. Neither the Registry records nor documentation obtained from United Nations Headquarters at the request of the team could support this amount. *The Registrar stated that in addition to recruiting a P-3 officer to better administer the trust funds, the Tribunal had recently entered into discussions with Headquarters in order to allow donors to deposit donations directly into a bank account in the name of the Tribunal. Deposits would subsequently be transferred to Headquarters via inter-office voucher. This will allow true transparency of donations received in the administering office.*

J. Defence counsel management

42. The Defence Counsel Management Section is responsible for the administration and functioning of the legal aid system. The Section's tasks include the following: maintaining rosters of lawyers willing to serve as defence counsel; assigning defence counsel to indigent detainees; briefing new counsel on the rules of the Tribunal; assessing compliance with the provisions of the directive on assignment of defence counsel; and reviewing and approving all claims by defence counsel for fees and expenses. In June 1997 the Registry promulgated a code of professional conduct for defence counsel appearing before the Tribunal, providing for standards of conduct on the part of counsel. The rules of procedure and evidence of the Tribunal, which provide for the qualifications of counsel, do not require, however, that counsel have any criminal or trial experience. The International Criminal Tribunal for Rwanda has prepared a directive that requires counsel to also have at least 10 years of relevant experience. The Defence Counsel Management Section recently provided the members of the Tribunal's rules committee with an alternative proposal to enhance the quality of the defence teams.

43. Substantial fees were paid to defence counsel, totalling over $3 million in 1997 and $9 million in 1998. The OIOS review of sample billings submitted by defence counsel disclosed that in some cases the bills submitted were insufficiently detailed or claimed payment for apparently unrelated activity. However, the team found that the Section withheld payment unless a proper explanation was received. A model invoice for billing by defence counsel has been finalized by the Section and distributed to defence counsel.

K. Press and Public Affairs Unit

44. The Unit has four subunits, namely, Press Relations, Legal Support, Internet and Public Relations. The Head of the Unit is the spokesperson for the Chambers and the Registry, while the Office of the Prosecutor appointed one of its staff to be its own spokesperson. Given its location in The Hague, modern technology is readily available to the Unit. The public and Tribunal staff can watch the court proceedings through live closed-circuit television monitors, and court decisions and other public documents of the Tribunal are provided. The Tribunal started its own Web site, where information regarding the cases and decisions can be retrieved. It also issues monthly bulletins in both English and French and plans to publish books of decisions of the Tribunal.

IV. The Office of the Prosecutor

45. The Office of the Prosecutor is headed by the Prosecutor, who also serves as Prosecutor for the International Criminal Tribunal for Rwanda and, by statute, is responsible for the investigation of cases, the preparation of indictments and the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1 January 1991. The objectives of the Office of the Prosecutor are to undertake and complete professional criminal investigations of those responsible for the atrocities that occurred during the conflict in the former Yugoslavia and to present prosecutions before the Chambers of the Tribunal.

A. Prosecution Division

46. The Prosecutor has established and is implementing a prosecution strategy aimed at pursuing the key perpetrators of crimes that are within the jurisdiction of the Tribunal. The Deputy Prosecutor advised the Office that this "top-down" strategy provides for more efficient prosecution than a "bottom-up" approach. The Prosecutor, the Deputy Prosecutor, the Acting Chief of the Prosecution Division and the Chief of Investigations meet weekly to review the progress of each investigation. The Deputy Prosecutor also holds quarterly reviews with the team commanders and their team members for assessing their performance. Lawyers assigned to the investigation teams have suggested to OIOS that the Prosecutor and/or the Deputy Prosecutor participate in their weekly legal meetings and indictment review meetings. The senior trial attorneys, the trial co-counsel and the senior legal advisers interviewed by OIOS were all found to possess substantial criminal trial experience. OIOS was told, however, that the incumbents in a number of the most senior positions of the Office of the Prosecutor were nationals of one Member State. New legal officers recruited by the Tribunal attend a two-day induction course aimed at providing them with relevant information on the operations of the Tribunal. However, OIOS was told that the course was too short and that additional training programmes were needed. *The Registrar stated that there were 18 encumbered positions in the Office of the Prosecutor at the P-5 level or above, representing 9 different nationalities, including representatives from the Asian region.*

47. Staff lawyers advised OIOS that the Office of the Prosecutor had no quick and clear policy on procedural issues that arose in court, such as whether all statements should be sworn and signed or whether interviews should be recorded on tape. The differences between civil law and common law procedures cause their respective practitioners to take different strategies based on the same set of facts. The Deputy Prosecutor advised OIOS that the post of Chief of Prosecution would be soon filled by an experienced staff member, who would coordinate most of the legal functions being performed by the Office of the Prosecutor. *The Office of the Prosecutor stated that the Prosecutor had circulated legal and policy guidelines.*

B. Investigation Division

48. The primary role of the Investigation Division is to conduct investigations as directed by the Prosecutor. The Division has procedures that guide investigators in the performance of their duties. The investigation strategy is in place and is well-documented. The Division is headed by a Chief, who is assisted by three investigation commanders. The role of the commanders is to monitor investigations at all stages. Each commander then supervises a number of criminal investigation teams. The work of the team leaders is to coordinate and facilitate the investigation teams, which are responsible for conducting investigations in the particular cases that are assigned to them.

49. The Director of Investigations meets regularly with the commanders, who brief him on the attainment of the goals of the teams in relation to the strategy. There are also weekly management meetings with the Prosecutor, and discussions are held on the status and plans of the investigation teams. Newly recruited investigators are briefed by the supervisors

on investigation procedures and protocols, mission reports and interviewing techniques in the field. A two-day induction course is also offered for the investigators upon their arrival at The Hague. Staff members interviewed during the review stated that the course was relevant but the duration and content needed expansion. *The Office of the Prosecutor stated that it had revised its internal training programmes and had extended the scope and context of such training, including the induction courses.*

50. The field offices located at Zagreb, Sarajevo and Belgrade are under the supervision of a Head of Mission, who is normally assisted by the Operations Officer. The main role that the field offices play is to facilitate and support the investigative teams in conducting investigations and to liaise with local authorities of the respective host Governments. The field offices also provide security situation reports to investigators and may screen witnesses on request. The request for support of the Stabilization Force by investigation teams going on mission in the field is done through the field offices. These offices too are involved in the exhumation exercises that are conducted each year. In some cases, the field offices are evidence custodians prior to handing over the exhibits to the respective investigation teams. The visit to two of the field offices revealed that some investigative teams on mission do not inform the Head of Mission upon entering the next field office area. Rooms in field offices used for the temporary storage of evidential material collected in the field by the investigative teams should be upgraded. During the review, the team visited the Zagreb and Sarajevo field offices. OIOS found that more than two years after its establishment, the Liaison Office of the Prosecutor in Zagreb as yet had no legal status, as the Government of Croatia had not yet signed the host country agreement.

V. The Chambers

51. The Chambers is the judicial organ of the Tribunal and includes the Trial Chambers and an Appeals Chamber. The 14 judges are elected by the General Assembly from a list of suitable candidates previously approved by the Security Council for four-year terms and are eligible for re-election. To ensure legal consistency between the two tribunals and pursuant to the Statute, the Appeals Chambers serves the tribunals for both the former Yugoslavia and Rwanda.

52. According to article 14 of the Statute, the judges elect a President, who becomes a member of the Appeals Chamber and presides over its proceedings. Rules 18 and 19 of the Rules of Procedure and Evidence provide the procedures for electing the President and set out the President's duties. These include presiding at plenary sessions of the judges, coordinating the activities of the Chambers and supervising the activities of the Registry.

53. OIOS was told that the working relationship between the Chambers and the Registry was very good. Regular meetings with the Registrar are held for resolving matters of common interest, such as the involvement of judges in the selection of their law clerks. Further, OIOS was told that the services provided by Judicial Support Services Division, and in particular the Court Management and Support Section, were very good.

VI. Conclusions

54. Overall, the review disclosed that all three organs of the Tribunal were being run on a sound managerial basis. The performance indicators leading to this conclusion were as follows: effective working relationships among the Chambers, the Office of the Prosecutor and the Registry; generally timely financial reporting; prudent use of vehicles and travel funds; proper use of funds received from donor countries; adequate courtroom facilities; a properly staffed and organized Victims and Witnesses Section; a secure environment; efficient defence counsel management; and a fully functioning Office of the Prosecutor, with established investigation procedures and objectives. However, the management of the Tribunal needs to take corrective measures, as highlighted in the present report and detailed in exit interviews and other communications to Tribunal officials, in particular in the areas of cash management, personnel recruitment, promotion and placement practices, procurement planning and bidding practices, especially in respect of the large number of *ex post facto* cases, accountability for expendable and non-expendable assets and improved communication between headquarters and the field offices.

VII. Recommendations to the Tribunal

A. Registry

55. The following are the recommendations made to the Registry:

(a) Cash management. OIOS recommends that control procedures be strengthened to provide for (i) regular reviews of the use and levels of petty cash funds and of outstanding bank reconciliation items, and (ii) adequate

monitoring of cash-flow projections (recommendation No. CS98/115/01);

(b) Accounts receivable. OIOS recommends that the Registry take the necessary actions (i) to investigate and clear the credit balances in the accounts, (ii) to collect long-outstanding accounts receivable, (iii) to write off uncollectible accounts and (iv) to prepare written guidelines and procedures for payroll processing (recommendation No. CS98/115/02);

(c) Outstanding obligations. OIOS recommends that the Registry regularly review outstanding obligations and impose deadlines for responses by certifying officers (recommendation No. CS98/115/03);

(d) Personnel. OIOS made a number of recommendations to the Registry, which has in turn implemented many of them. Key among these recommendations are for the Registry (i) to apply consistently placement and promotion policies for existing and anticipated vacant posts and to seek exceptions where necessary, (ii) to establish guidelines for maintaining the candidates' roster and (iii) to develop appropriate procedures for the promotion of staff (recommendation No. CS98/115/04);

(e) Travel. OIOS recommends that the Registry institute measures to review the travel budget levels and adjust them on the basis of actual usage. Timely preparation of travel plans and regular reviews of the status of expenditures of the different organs of the Tribunal should help in this monitoring process (recommendation No. CS98/115/05);

(f) Asset management. OIOS recommends that the Registry establish procedures to safeguard and account for expendable and non-expendable assets, including verification of physical inventory (recommendation No. CS/98/115/06);

(g) Procurement. OIOS made a number of recommendations to the Registry, namely, (i) to ensure proper procurement planning by requisitioning offices, (ii) to review bidding procedures and processes, (iii) to coordinate with other United Nations procurement offices to benefit from available global contracts, (iv) to benchmark the Procurement Unit's work and processes to determine the right size and coverage and (v) to establish briefing/training sessions for requisitioning offices (recommendation No. CS98/115/07);

(h) To provide for a proper separation of functions, OIOS also recommends that the Finance Section match invoices with purchase orders and receiving and inspection reports (recommendation No. CS98/115/08);

(i) Regarding the new detention facility and services contract, OIOS recommends that, in considering the terms and conditions of a contract for the complete package, the Registry should request the host Government to provide detailed costing information. The Registry should also establish regular monitoring of performance indicators (recommendation No. CS98/115/09);

(j) Trust funds. OIOS recommends that the Registrar, in consultation with the President and the Prosecutor and with the approval of the Department of Management, implement procedures to better document, control and report on the use of contributions from Member States and ensure that an operating reserve of 20 per cent is maintained, in accordance with the administrative instruction entitled "Programme support accounts" (ST/AI/286, annex) (recommendation No. CS98/115/10).

B. Office of the Prosecutor

56. The following are the recommendations made to the Office of the Prosecutor:

(a) OIOS recommends that (i) the investigative teams in the field be in regular contact with the field offices, (ii) that communications between Headquarters and the field offices be improved and (iii) that evidence storage be upgraded at the field offices (recommendation No. CS98/115/11);

(b) OIOS further recommends that senior management consider increasing their participation in key meetings of the Tribunal's legal staff (recommendation No. CS98/115/12).

(Signed) Karl Th. **Paschke**
Under-Secretary-General
for Internal Oversight Services